

Message Text

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ACTION EUR-25

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-07 INR-10 L-03

NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SPC-03 SS-15

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R 111020Z OCT 73

FM USMISSION BERLIN

TO AMEMBASSY BONN

INFO SECSTATE WASHDC 2513

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION NATO

C O N F I D E N T I A L SECTION 1 OF 2 BERLIN 1756

E.O. 11652: GDS

TAGS: PGOV, WB, GE, GW

SUBJECT: SENAT-GDR NEGOTIATIONS: NEXT STEPS

REF:

A. BONN 14436

B. BONN 14522

C. BERLIN A-197

D. BERLIN 1299

E. BERLIN 1736 (NOTAL)

1. SUMMARY: WE APPRECIATE EMBASSY AND DEPARTMENT
EFFORTS OF GENERAL BK/L ON SENAT-GDR CONTACTS.
WE ARE STRUCK, HOWEVER, BY SISYPHEAN ASPECTS OF EXERCISE
AND WOULD SUGGEST THAT TIME MAY HAVE ARRIVED TO TERMINATE
IT SO THAT URGENT BACKLOG OF PROBLEMS THAT HAVE BEEN
POSTPONED PENDING ITS RESOLUTION CAN BE DEALT WITH. WE
SUGGEST THAT EXERCISE BE CONSIDERED PARTIAL SUCCESS IN
THAT IT HAS FOCUSED ATTENTION OF INTERESTED PARTIES ON
RELEVANT ISSUES AND RECOMMEND THAT PENDING FURTHER EFFORTS TO GET
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OUT A BK/L SPECIFIC AD HOC DECISIONS BE TAKEN

NOW ON WATER CONSERVANCY AND BOUNDARY RESCUE AGREEMENT NEGOTIATIONS
AND ON OTHER PETENTIAL NEGOTIATIONS AS THEY ARISE. END SUMMARY.

2. IT WOULD APPEAR FROM THOROUGH AIRING OF PROBLEM
LAST WEEK IN BONN (REFS A AND B) THAT THREE ALLIES AND
FRG (AS WELL AS PERHAPS SENAT) ALL RETAIN DIFFERENT
CONCEPTS OF WHAT IS TO BE ACCOMPLISHED BY GENERAL BK/L
AS WELL AS HOW SUCH GENERAL BK/L MIGHT BE PHRASED.
WHILE MISSION IS OF COURSE PREPARED TO GO BACK TO DRAFTING
BOARD, WE ARE FRANKLY NOT OPTIMISTIC MAGIC FORMULA YET WITHING GRASP
AND ARE CONCERNED THAT MUCH FURTHER PREOCCUPATION
WITH EXERCISE COULD SERIOUSLY IMPAIR SENAT. ALLIED
CONSULTATION MECHANISM, SMOOTH FUNCTIONING OF WHICH
REQUIRES THAT WE BE ABLE TO GIVE SENAT EXPEDITIOUS
GUIDANCE. WE WERE STRUCK IN READING REFTELS, HOWEVER,
THAT WHILE OBJECTIVES AND MECHANISMS REMAIN IMPRECISE,
DISCUSSANTS APPEARED TO SHARE GENERAL CONSENSUS OF PITFALLS
IN SENAT-GDR NEGOTIATIONS. WE WOULD SUMMARIZE THESE AS
FOLLOWS:

- A. ALLIED LEGAL POSITION ON STATUS OF BERLIN
COULD BE WEAKENED.
- B. WEST BERLIN'S TIES OF FRG COULD BE WEAKENED.
- C. GDR COULD BE GIVEN SUPPORT FOR ITS THEORY THAT
WEST BERLIN IS INDEPENDENT ENTITY WITH CAPACITY TO CONDUCT
FOREIGN RELATIONS AND CONCLUDE INTERNATIONAL AGREEMENTS.

3. MORE SIGNIFICANTLY, DISCUSSANTS ALSO APPEARED
TO SHARE CONSENSUS ON ELEMENTS OF MEANS TO AVOID
THESE PITFALLS. THESE WOULD INCLUDE:

A. SCOPE AND NUMBER OF SENAT-GDR NEGOTIATIONS
SHOULD BE MINIMIZED. IDEALLY, AS MANY NEGOTIATIONS AS
POSSIBLE SHOULD BE CONDUCTED BY FRG WITH GDR PURSUANT TO
AUTHORITY DERIVED FROM ALLIED BK/L AUTHORIZING SENAT
TO ARRANGE FOR FRG TO REPRESENT INTERESTS OF WEST BERLIN
WITH GDR PURSUANT TO BASIC TREATY.

B. WHEN SENAT DOES ENGAGE IN NEGOTIATIONS WITH
GDR, THIS SHOULD BE ON BASIS OF ALLIED, NOT FRG, AUTHORI-
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ZATION. (NOWEVER, IN SPECIFIC CASE, SUCH AS ELECTRIC POWER
NET, PARA 3 REF B, ALLIED AUTHORIZATION COULD LINK SENAT-
GDR ARRANGEMENTS TO WIDER FRG-GDR AGREEMENT IN WHICH
BERLIN WAS INCLUDED. NEGOTIATIONS SHOULD BE CONDUCTED UNER ALLIED
SUPERVISION AND BE DEPENDENT FOR THEIR CONCLUSION UPON
FINAL ALLIED AUTHORIZATION.

C. SENATAGDR NEGOTIATIONS SHOULD NOT BE PERMITTED

TO ERODE ALLIED POSITION THAT GDR IS NOT SOVEREIGN OVER EAST BERLIN. WHERE GDR NEGOTIATES ON BEHALF OF EAST BERLIN, THERE SHOULD BE SOME PROTECTIVE COVER FOR THIS LEGAL POSITION. IN CERTAIN INSTANCES COVER MIGHT BE QA OR QARELATED DOCUMENTS SINCE QA REFERENCE WOULD PERMIT US TO EXTRAPOLATE THAT GDR IS ACTING PURSUANT TO SOVIET AUTHORIZATION.

D. QA CONCEPT OF IMPROVEMENT OF COMMUNICATIONS SHOULD NOT, HOWEVER, BE STRETCHED SO FAR AS TO IMPLY THAT QA IS OPEN-ENDED DOCUMENT.

4. WE HAVE AT NO TIME LABORED UNDER ILLUSION THAT BK/L WOULD IN ALL CIRCUMSTANCES ASSURE FULL CONSULTATION OR SERVE SENAT'S END OF HELPING TO MAINTAIN CONTRO OF THOSE OF ITS ELEMENTS WHO MIGHT BE TEMPTED TO ENGAGE IN DISCUSSIONS WITH GDR WITHOUT FULL COORDINATION WITH SENAT. HOWEVER, DIALOGUE OVER PAST FEW MONTHS MAY HAVE BEEN HELPFUL IN BRINGING ALL PARTIES CLOSER TOGETHER ON THESE ISSUES, EVEN IF WE HAVE TO FOREGO BK/L THAT WOULD BE USEFUL TO HAVE ON THE RECORD.

5. WE ARE PREPARED TO HAVE ONE MORE TRY AT RECONCILING VIEWS ON A BK/L, BUT IN MEANTIME PRESS OF IMMEDIATE BUSINESS CANNOT BE IGNORED. WE WOULD THUS SUGGEST THAT ATTENTION OF ALL PARTIES MIGHT NOW USEFULLY BE TURNED TO RESOLUTION OF OUTSTANDING QUESTIONS ON WATER CONSERVANCY AND BOUNDARY RESCUE TALKS. WITH REGARD TO FORMER, IT WOULD APPEAR THAT SOLE QUESTION REMAINING BEFORE APPROVAL CAN BE GIVEN TO SENAT TO RESPOND TO GDR INITIATIVE IS RELATIONSHIP OF TALKS TO QA. FRG RATIONALE FOR INCLUDING REFERENCE TO "COMMUNICATIONS" PROVISION OF QA IS, ACCORDING TO PARA 7 REF A, THAT THIS WOULD MAKE CLEAR THAT SENAT CONFIDENTIAL

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WOULD BE NEGOTIATING UNDER COVER OF ALLIED AUTHORITY.

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C O N F I D E N T I A L SECTION 2 OF 2 BERLIN 1756

STRETCH COMMUNICATIONS CONCEPT BEYOND IMMEDIATELY
RECOGNIZABLE BOUNDS. COMMON FRG AND ALLIED OBJECTIVE
COULD, IT SEEMS TO US, RATHER EASILY BE ACCOMPLISHED
BY REVISING SECOND PARAGRAPH OF SENAT DRAFT (BERLIN 1246)
ALONG FOLLOWING LINES TO REMOVE QA REFERENCE: "WITH
REFERENCE TO MY TELEX COMMUNICATION OF MAY 18, 1973 AND
AFTER HAVING HELD THE NECESSARY DISCUSSIONS WITH THE
ALLIED AUTHORITIES, I DECLARE MYSELF AGREED IN PRINCIPLE
TO DISCUSS THE FOLLOWING WATER CONSERVANCY THEMES OF
A LOCAL NATURE WHICH MAY BE OF INTEREST TO BOTH SIDES"

6. SENAT HAS, OF COURSE, BEEN NEGOTIATING ON BOUNDARY-
RESCUE QUESTIONS WITH GDR ON BASIS OF ALLIED ORAL AUTHORI-
ZATION SINCE LATE SPRING. FRANCH HAVE NOW, HOWEVER,
INSISTED THAT BEFORE SENAT CAN TABLE ITS COUNTERDRAFT
AGREEMENTS (REFS C AND D) ALLIES MUST PROVIDE MORE
EXPLICIT AUTHORIZATION AND NEGOTIATING INSTRUCTIONS.
BOTH FRENCH AND BRITISH HAVE PRESSED FOR CLARITY IN
ALLIED POSITION QA REFERENCE. AS RECITED REF E,
MISSIONS HAVE AGREED AD REFERENDUM TO EMBASSIES ON
FOLLOWING PROCEDURE: A) INFORMAL PAPER TO BE GIVEN
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TO SENAT AUTHORIZING IT TO CONTINUE WITH TALKS AIMED
AT LIMITED HUMANITARIAN OBJECTIVES SUBJECT TO ALLIED
CONTROL: B) INSTRUCTIONS TO SENAT TO MAKE ONE LAST
EFFORT TO NARROW FOCUS OF DISCUSSIONS FROM GDR DRAFT
AGREEMENT TO SIMPLE EXCHANGE OF LETTERS BETWEEN TECHNICALLY
COMPETENT OFFICIALS: C) IN EVENT GDR REJECTS THIS
APPROACH, SENAT TO TABLE COUNTERDRAFT (WITH MINOR
DRAFTING IMPROVEMENT SUGGESTED BY BRITISH).

7. BRITISH AND FRENCH, PARTICULARLY FORMER, FEEL STRONGLY

THAT QA REFERENCE IS IMPORTANT IN BOUNDARY- RESCUE AGREEMENT SINCE SUBJECT MATTER IS, QUITE SPECIFICALLY, INNER-BERLIN SECTOR BOUNDARIES. THEY ALSO POINT OUT THAT SUBJECT OF AGREEMENT IS VERY CLOSE TO IMPROVEMENT-OF-COMMUNICATIONS CONCEPT IN QA. WE BELIEVE THERE IS CONSIDERABLE MERIT IN ALLIED ARGUMENTS, BUT WHILE SENAT COUNTERDRAFT HAS DIRECT PREAMBULAR REFERENCE TO COMMUNICATIONS PROVISION OF QA, GDR NEGOTIATOR MITDANK HAS ALREADY IN EFFECT REJECTED DIRECT REFERENCE WHEN HE SAID GDR IS NEGOTIATING ON BASIS OF OWN SOVEREIGNTY (REF D). MITDANK MAY HAVE POINTED WAY TO ULTIMATE COMPROMISE, HOWEVER, WHEN HE SAID AT SAME TIME THAT IT MIGHT BE POSSIBLE TO MAKE REFERENCE TO PROTOCOL VERMERK ISSUED BY GDR AND SENAT NEGOTIATORS IN CONJUNCTION WITH VISITS ARRANGEMENT, WHICH ENVISAGED ADDITIONAL NEGOTIATIONS DESIGNED TO IMPROVE COMMUNICATIONS. INITIAL BRITISH REACTION WAS THAT SUCH REFERENCE COULD PERMIT ALLIES TO MAINTAIN THAT GDR WAS OPERATING UNDER PRESUMED AUTHORIZATION OF SOVIETS WHILE AVOIDING IMPLICATION THAT QA ITSELF WAS OPEN-ENDED DOCUMENT.

8. ACTION REQUESTED: WITHOUT WAITING FOR GENERAL BK/L EXERCISE TO BE CONCLUDED, ALLIED MISSIONS BE AUTHORIZED TO ADVISE SENAT: A) IT MAY SEND RESPONSE ON WATER CONSERVANCY AMENDED BY CHANGE SUGGESTED PARA 5; AND B) IT SHOULD PROCEED WITH BOUNDARY-RESCUE TALKS ON BASIS OF SCENARIO SET FORTH PARA 6. WE FURTHER RECOMMEND THAT WE BE GIVEN AUTHORITY FOR EVENTUAL COMPROMISE ON QA REFERENCE ENVISAGED PARA 7 ABOVE.KLEIN

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